

TOWN OF BEAUX ARTS VILLAGE

ORDINANCE NO. 300

An ordinance of the Town of Beaux Arts Village, Washington, adopting standards for participation in the National Flood Insurance Program.

WHEREAS, the Town of Beaux Arts Village wishes and desires to provide its citizens with the means to apply for and obtain flood insurance with the National Flood Insurance Program; and

WHEREAS, a condition precedent to obtaining flood insurance at reasonable and affordable rates is the adoption of a flood damage prevention ordinance;

NOW, THEREFORE, THE COUNCIL OF THE TOWN OF BEAUX ARTS VILLAGE, WASHINGTON, DOES ORDAIN AS FOLLOWS:

Section 1. Special Flood Hazard Areas

At the time of the adoption of this Ordinance there are no identified Special Flood Hazard Areas within the Town of Beaux Arts Village identified by the Federal Insurance Administration. If and when a Flood Insurance Rate Map (FIRM) is issued that identifies a Special Flood Hazard Area with the Town's boundaries, the Flood Insurance Maps, as amended, shall be adopted by reference and declared to be a part of this ordinance. If and when a Special Flood Hazard Area is identified in the Town, the Town of Beaux Arts Village agrees to enforce the provisions of this ordinance for all development located in an identified Special Flood Hazard Area.

Section 2. Stand Alone Ordinance

This Ordinance is adopted as a **stand alone** ordinance and will be enforced **only** in those areas that become identified as Special Flood Hazard Areas within the Town of Beaux Arts Village.

Section 3. Statement of Purpose

It is the purpose of this ordinance to promote the public health, safety, and general welfare, and to minimize public and private losses due to flood conditions in specific areas by provisions designed:

1. To protect human life and health.
2. To minimize expenditure of public and private money and costly flood control projects.
3. To minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public.
4. To minimize prolonged business interruptions.

5. To minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets, and bridges located in areas of special flood hazard.
6. To help maintain a stable tax base by providing for the sound use and development of areas of special flood hazard so as to minimize future flood blight areas.
7. To ensure that potential buyers are notified that property is in an area of special flood hazard.
8. To ensure that those who occupy the areas of special flood hazard assume responsibility for their actions.

Section 4. Definitions

Unless specifically defined below, words or phrases used in this ordinance shall be interpreted so as to give them the meaning they have in common usage and to give this ordinance its most reasonable application.

APPEAL means a request for a review of the interpretation of any provision of this ordinance.

AREA OF SHALLOW FLOODING means a designated AO or AH Zone on the Flood Insurance Rate Map (FIRM). The base flood depths range from one to three feet; a clearly defined channel does not exist; the path of flooding is unpredictable and indeterminate; and velocity flow may be evident. AO is characterized as sheet flow and AH indicates ponding.

AREA OF SPECIAL FLOOD HAZARD means the land in the flood plain within a community subject to a one percent or greater chance of flooding in any given year. Designation on maps always includes the letters A or V.

BASE FLOOD means the flood having a one percent chance of being equaled or exceeded in any given year. Also referred to as the "100-year flood." Designation on maps always includes the letters A or V.

BASEMENT means any area of the building having its flood subgrade (below ground level) on all sides.

CRITICAL FACILITY means a facility for which even a slight chance of flooding might be too great. Critical facilities include, but are not limited to schools, nursing homes, hospitals, police, fire and emergency response installations, installations which produce, use or store hazardous materials or hazardous waste.

DEVELOPMENT means any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations located within the area of special flood hazard.

ELEVATED BUILDING means for insurance purposes a nonbasement building which has its lowest elevated floor raised above ground level by foundation walls, shear walls, post, piers, pilings, or columns.

FLOOD OR FLOODING means a general and temporary condition of partial or complete inundation or normally dry land areas from:

- A. The overflow or inland or tidal waters and/or
- B. The unusual and rapid accumulation of runoff of surface waters from any source.

FLOOD INSURANCE RATE MAP (FIRM) means the official map on which the Federal Insurance Administration has delineated both the areas of special flood hazards and the risk premium zones applicable to the community.

FLOOD INSURANCE STUDY means the official report provided by the Federal Insurance Administration that includes flood profiles, the Flood Boundary-Floodway Map, and the water surface elevation of the base flood.

FLOODWAY means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot.

LOWEST FLOOR means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage, in an area other than a basement area, is not considered a building's lowest floor, provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of this ordinance.

NEW CONSTRUCTION means structures for which the "start of construction" commenced on or after the effective date of this ordinance.

START OF CONSTRUCTION includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, placement or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

STRUCTURE means a walled and roofed building including a gas or liquid storage tank that is principally above ground.

SUBSTANTIAL DAMAGE means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before-damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

SUBSTANTIAL IMPROVEMENT means any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure either:

A. Before the improvement or repair is started, or if the structure has been damaged and is being restored, before the damage occurred. For the purposes of this definition "substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure.

B. The term does not, however, include either:

1. Any project for improvement of a structure to comply with existing state or local health, sanitary, or safety code specifications which are solely necessary to assure safe living conditions, or

2. Any alteration of a structure listed on the National Register of Historic Places or a State Inventory of Historic Places.

Section 5. Greater Restrictions

This ordinance is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this ordinance and another ordinance, easement, covenant, or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

Section 6. Interpretation

In the interpretation and application of this ordinance all provisions shall be:

A. Considered as minimum requirements.

B. Liberally construed in favor of the governing body.

C. Deemed neither to limit nor repeal any other powers granted under State statutes or other city ordinances.

Section 7. Warning and Disclaimer of Liability

The degree of flood protection required by this ordinance is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes. This ordinance does not imply that land outside the areas of special flood

hazards or uses permitted within such areas will be free from flooding or flood damages. This ordinance shall not create liability on the part of the Town of Beaux Arts Village, any officer or employee thereof, or the Federal Insurance Administration, for any flood damages that result from reliance on this ordinance or any administrative decision lawfully made hereunder.

Section 8. Administration

A development permit shall be obtained before construction or development begins within any area of Special Flood Hazard. The permit shall be for all structures, as set forth in the "DEFINITIONS", and for all development including fill and other activities, also as set forth in the "DEFINITIONS".

A. Application for a development permit shall be made on forms furnished by the Town and may include but not be limited to plans drawn to scale showing the nature, location, dimensions, and elevations of the area in question; existing or proposed structures, fill storage of materials, drainage facilities, and the location of the foregoing.

B. The following information is required:

1. Elevation in relation to mean sea level of the lowest floor (including basement) of all structures, if available.
2. Elevation in relation to mean sea level to which any structure has been floodproofed, if available.
3. Certification by a registered professional engineer or architect that the floodproofing methods for any nonresidential structure meet the floodproofing criteria herein set forth in this ordinance.
4. Description of the extent to which a watercourse will be altered or relocated as a result of proposed development.

Section 9. Duties and Responsibilities of the Administrator

A. Permit Review

1. Review all development permits to determine that the permit requirements of this ordinance have been satisfied.
2. Review all development permits to determine that all necessary permits have been obtained from those Federal, State, or local governmental agencies from which prior approval is required.

B. When base flood elevation data has not been provided in accordance with Section 8, the local administrator shall obtain, review and reasonably utilize the best available base flood elevation and floodway data available from a Federal, State or other source in order to administer the specific standards as hereinafter set forth.

C. Information to be Obtained and Maintained:

1. Where base flood elevation data is provided through the Flood Insurance Study or required in Section 8 above, obtain and record the actual elevation (in relation to mean sea

level) of the lowest floor (including basement) of all new or substantially improved structures, and whether or not the structure contains a basement.

2. For all new or substantially improved floodproofed structures:
 - a. Verify and record the actual elevation (in relation to mean sea level).
 - b. Maintain the floodproofing certifications required by this ordinance.
3. Maintain for public inspection all records pertaining to the provisions of this ordinance.

D. Alteration of Watercourses:

1. Notify adjacent communities and the Department of Ecology prior to any alteration or relocation of a watercourse and submit evidence of such notification to the Federal Insurance Administration.
2. Require that maintenance be provided within the altered or relocated portion of said watercourse so that the flood carrying capacity is not diminished.

E. Interpretation of Special Flood Hazard Area Boundaries:

1. Make interpretations, where needed, as to exact location of the boundaries of the areas of any special flood hazards. The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation, such appeals shall be granted consistent with the standards of Section 60.6 of the Rules and Regulations of the National Flood Insurance Program (44 CFR 59-76).

Section 10: General Standards

In all areas of special flood hazards, the following standards are required:

- A. All new construction and substantial improvements shall be anchored to prevent flotation, collapse, or lateral movement of the structure.
- B. All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.
- C. All new construction and substantial improvements shall be constructed using methods and practices that minimize flood damage.
- D. All new construction and substantial improvement electrical, heating, ventilation, plumbing, and air-conditioning equipment and other service facilities shall be designed and/or otherwise elevated or located so as to prevent water from entering or accumulating within the components during conditions of flooding.
- E. All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system.
- F. All new and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharge from the systems into flood waters.
- G. All new and replacement on-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.
- H. All new subdivision proposals shall be consistent with the need to minimize flood damage.
- I. All new subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize flood damage.

J. All new subdivision proposals shall have adequate drainage provided to reduce exposure to flood damage.

K. Where base flood elevation data has not been provided or is not available from another authoritative source, it shall be generated for subdivision proposals and other proposed developments which contain at least 50 lots or 5 acres (whichever is less).

L. Where elevation data is not available either through the Flood Insurance Study or from another authoritative source applications for building permits shall be reviewed to assure that proposed construction will be reasonably safe from flooding. The test of reasonableness is a local judgment and includes use of historical data, high water marks, photographs of past flooding, etc., where available. Failure to elevate at least two feet above grade in these zones may result in higher insurance rates.

Section 11: Specific Standards

Where base flood elevation data has been provided the following specific standards apply:

A. Residential Construction:

1. New construction and substantial improvement of any residential structure shall have the lowest floor, including basement, elevated one foot above the base flood elevation, if elevation data is available.

2. Fully enclosed areas below the lowest floor that are subject to flooding are prohibited, or shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must be either certified by a registered professional engineer or architect, or must meet or exceed the following minimum criteria:

- a. A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided.
- b. The bottom of all openings shall be no higher than one foot above grade.
- c. Openings may be equipped with screens, louvers, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.

B. Nonresidential Construction:

1. New construction and substantial improvement of any commercial, industrial or other nonresidential structure shall either have the lowest floor, including basement, elevated one foot above the base flood elevation; or, together with attendant utility and sanitary facilities, shall:

- a. Be floodproofed so that below one foot above the base flood level the structure is watertight with walls substantially impermeable to the passage of water, if elevation data is available.
- b. Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy.
- c. Be certified by a registered professional engineer or architect that the design and methods of construction are in accordance with accepted standards of practice for meeting provisions of this subsection based on their development and/or review of the structural design, specifications and plans. Such certifications shall be provided to the official as set forth in Section 9 of this ordinance.

d. Nonresidential structures that are elevated, not floodproofed, must meet the same standards for space below the lowest floor as described in Section A (2) of this section.

e. Applicants floodproofing nonresidential buildings shall be notified that flood insurance premiums will be based on rates that are one foot below the floodproofed level, e.g. a building floodproofed to the base flood level will be rated as one foot below.

Section 12. Encroachments

The cumulative effect of any proposed development, where combined with all other existing and anticipated development, shall not increase the water surface elevation of the base flood more than one foot at any point.

Section 13. Critical Facility

Construction of new critical facilities shall be, to the extent possible, located outside the limits of the Special Flood Hazard Area (SFHA) (100-year floodplain). Construction of new critical facilities shall be permissible within the SFHA if no feasible alternative site is available. Critical facilities constructed within the SFHA shall have the lowest floor elevated three feet or more above the level of the base flood elevation (100-year) at the site. Floodproofing and sealing measures must be taken to ensure that toxic substances will not be displaced by or released into flood waters. Access routes elevated to or above the level of the base flood elevation shall be provided to all critical facilities to the extent possible.

Section 14. Penalties for Noncompliance

No structure or land shall hereafter be constructed, located, extended, converted, or altered in an identified Special Flood Hazard Area (SFHA) without full compliance with the terms of this ordinance and other applicable regulations. Violations of the provisions of this ordinance by failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with conditions), shall constitute a misdemeanor.

Section 15. Validity

If any section, paragraph, clause or phrase of this ordinance is for any reason held to be unconstitutional or invalid, such decision shall not affect the validity of the remaining portions of this ordinance. The City Council hereby declares that they would have passed this ordinance and each section, paragraph, subsection, clause or phrase thereof irrespective of the fact that any one or more sections, paragraphs, clauses, or phrases may subsequently be found by competent authority to be unconstitutional or invalid.

Section 16. Effective Date

This ordinance shall take effect and be in force five (5) days after its passage and publication.

PASSED by the Council of the Town of Beaux Arts Village, Washington, this 13th day of December, 1999.

APPROVED by the Mayor of the Town of Beaux Arts Village, Washington, this 11th day of January, 2000.

Charles R. Lowry, Mayor

ATTEST:

Gail D. D'Alessio, Clerk/Treasurer

APPROVED AS TO FORM:

Wayne Stewart, Town Attorney